IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.670 OF 2006

M/s.Shirodkar Packagings .. Appellant.
Vs.
Mangala Balkrishna Tanpure & Ors. .. Respondents.

Mr.S.A.Sawant for the appellant.
Mr.Amit Borkar for respondent nos.1 to 3.

CORAM : D.B.BHOSALE, J.
DATED : 6TH MARCH, 2007

P.C.:

. Heard learned counsel for the parties.

2. This appeal by the original plaintiff is directed against the concurrent judgments of the courts below by which a suit for declaration and mandatory injunction against the defendants regarding open plot admeasuring 15" X 50" (for short "suit plot) stands dismissed. The plaintiff claim that he is in possession of the suit plot on the basis of a lease deed executed by the respondent-defendant on 20th December, 1973. Mr.Sawant, learned counsel for the appellant submitted that the findings recorded by the courts below are perverse and are recorded overlooking the recitals of the lease deed. He invited my attention to the document to contend that even the suit plot was also given in possession of the

plaintiff alongwith the existing structure and the open space by the side of the said structure. I perused the document as also the map annexed to the document. In my opinion, the courts below have appreciated the evidence in proper perspective and the appeal court in paragraphs 10 to 12 has rightly held that the suit plot was not given in possession of the plaintiff. Merely because M/s.Maharashtra Metal Works, the another lessee in possession of the adjacent plot, had filed a suit against the appellant-plaintiff and in that suit some observations were made in his favour, that would not help him to prove his possession over the suit plot. Admittedly the respondent-landlord was not party in that suit. The courts below after having taken into consideration the evidence and the other material on record have concurrently held that suit plot, admeasuring 15" X 50", was not leased out to the plaintiff and they were not put in possession thereof. I find no reason to interfere with the concurrent findings recorded by the courts below as I find sufficient material on record to sustain those findings. No substantial question of law is involved in the present appeal hence the appeal stands dismissed.

(D.B.Bhosale, J.)